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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 9th December, 1974:—

BILL NO. 108 OF 1974

A Bill to provide for the development under the control of the Union of the tobacco industry.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Tobacco Board Act, 1974.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and for different States or different parts thereof.

Declaration as to expediency of control by the Union.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the tobacco industry.

Definitions.

3. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Tobacco Board established under section 4;

(*b*) "Chairman" means Chairman of the Board;

(*c*) "curing" shall have the meaning assigned to it in the Central Excises and Salt Act, 1944 and all its grammatical variations and cognate expressions shall be construed accordingly; 1 of 1944.

(*d*) "dealer" means a dealer in tobacco;

(*e*) "Executive Director" means the Executive Director appointed under section 6;

(*f*) "export" and "import" mean, respectively, taking out of, or bringing into, India, by land, sea or air;

(*g*) "member" means a member of the Board and includes the Chairman;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "registered" means, except in the expression "registered grower", registered under Chapter III of this Act and the rules made thereunder;

(*j*) "registered grower" means a person who has obtained a certificate of registration under section 10 for growing virginia tobacco.

CHAPTER II

THE TOBACCO BOARD

4. (1) With effect from such date as the Central Government may, notification in the Official Gazette, appoint in this behalf, there shall established for the purposes of this Act, a Board to be called the Tobacco Board.

of the Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at Guntur in the State of Andhra Pradesh and the Board may, with the previous approval of the Central Government, establish offices or agencies at other places in or outside India.

(4) The Board shall consist of the following members, namely:—

(*a*) a Chairman to be appointed by the Central Government;

(*b*) three members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(*c*) seven members to be appointed by the Central Government to represent respectively:—

(*i*) the Ministry of the Central Government dealing with Agriculture;

(*ii*) the Ministry of the Central Government dealing with Commerce;

(*iii*) the Ministry of the Central Government dealing with Finance;

(*iv*) the Ministry of the Central Government dealing with Industrial Development;

(*v*) the Indian Council of Agricultural Research;

(*vi*) the Government of Andhra Pradesh; and

(*vii*) the Government of Karnataka;

(*d*) two members to be appointed by the Central Government, by rotation in the alphabetical order, to represent the Governments of tobacco-growing States other than the States of Andhra Pradesh and Karnataka;

(*e*) not more than eight members to be appointed by the Central Government from amongst growers of tobacco, dealers and exporters (including packers) of tobacco and tobacco products, manufacturers of tobacco products and from amongst persons who, in the opinion of the Central Government, are experts in tobacco marketing or agricultural economics.

(5) The Board shall elect, from amongst its members, a Vice-Chairman who shall exercise such of the powers and perform such of the functions of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(6) The term of office of the members and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed.

(7) The Executive Director and any such officer of the Central Government (not being a member of the Board) as is deputed by the Central Government in this behalf, shall have the right to attend the meetings of the Board and take part in the proceedings thereof, but shall not have the right to vote.

(8) The Board may associate with itself, in such manner and for such purposes as may be prescribed, and persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

(9) No act or proceeding of the Board or any committee appointed by it under section 7 shall be invalidated merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Board or such committee; or

(*b*) any defect in the appointment of a person acting as a member of the Board or such committee; or

(*c*) any irregularity in the procedure of the Board or such committee not affecting the merits of the case.

Salary and allowances and other conditions of service of Chairman.

5. The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

Officers of the Board and other staff.

6. (1) The Central Government shall appoint an Executive Director to exercise such powers and perform such duties under the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(2) The Central Government shall appoint a Secretary to the Board to exercise such powers and perform such duties under the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(3) The Executive Director and the Secretary shall be entitled to such salaries and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may from time to time be fixed by the Central Government.

(4) Subject to such control, restrictions and conditions (including conditions as to appointment of the officers and other employees of the Tobacco Export Promotion Council, in the event of the said Council being wound up) as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions.

(5) The Chairman, the Executive Director, the Secretary and other officers and employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

Committees of the Board.

7. (1) The Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Board shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons who are not members of the Board as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in the proceedings of the committee but shall not have the right to vote.

Functions of the Board.

8. (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development under the control of the Central Government of the tobacco industry.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) regulating the production and curing of virginia tobacco having regard to the demand therefor in India and abroad;

(b) keeping a constant watch on the virginia tobacco market, both in India and abroad, and ensuring that the growers get a fair and remunerative price for the same and that there are no wide fluctuations in the prices of the commodity;

(c) maintenance and improvement of existing markets, and development of new markets outside India for Indian virginia tobacco and its products and devising of marketing strategy in consonance with demand for the commodity outside India, including group marketing under limited brand names;

(d) recommending to Central Government the minimum prices which may be fixed for purposes of export of virginia tobacco with a view to avoiding unhealthy competition amongst the exporters;

(e) regulating in other respects virginia tobacco marketing in India and export of virginia tobacco having due regard to the interests of growers, manufacturers and dealers and the nation;

(f) propagating information useful to the growers, dealers and exporters (including packers) of virginia tobacco and manufacturers of virginia tobacco products and others concerned with virginia tobacco and products thereof;

(g) purchasing virginia tobacco from growers when the same is considered necessary or expedient for protecting the interests of the growers and disposal of the same in India or abroad as and when considered appropriate;

(h) promoting the grading of tobacco at the level of growers;

(i) sponsoring, assisting, co-ordinating or encouraging scientific, technological and economic research for the promotion of tobacco industry;

(j) such other matters as may be prescribed.

(3) Without prejudice to the generality of the provisions of sub-section (1) and subject to priority being given to matters specified in sub-section (2), the measures referred to in sub-section (1) may also provide in relation to tobacco, other than virginia tobacco, for all or any of the matters specified in clauses (c) to (g) of sub-section (2) and for this purpose any reference in those clauses to virginia tobacco shall be construed as including a reference to tobacco other than virginia tobacco.

(4) The Board shall perform its functions under this section in accordance with and subject to such rules as may be made by the Central Government and such rules may in particular make provisions for ensuring that the Board functions in close liaison with Union agencies, institutions and authorities concerned with the tobacco industry (including growing of tobacco) and avoids duplication of effort.

Dissolution of the Board.

9. (1) The Central Government may, by notification in the Official Gazette and for reasons to be specified therein, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Board to make representations against the proposed dissolution and shall consider the representations, if any, of the Board.

(2) When the Board is dissolved under the provisions of sub-section (1),—

(a) all members, notwithstanding that their term of office has not expired, shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(c) all funds and other properties vested in the Board shall, during the period of dissolution, vest in the Central Government; and

(d) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III

REGULATION OF PRODUCTION AND DISPOSAL OF VIRGINIA TOBACCO

Registration of growers of virginia tobacco.

10. (1) No person shall grow virginia tobacco except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the rules made under this Act.

(2) In granting or refusing a certificate of registration, the Board shall have regard to the demand for virginia tobacco in India and abroad, and the suitability of the land in relation to which the certificate is applied for and such other factors as may, having regard to the needs of the virginia tobacco industry, be prescribed.

(3) A certificate of registration granted in pursuance of this section shall be valid for such period as may be prescribed.

(4) Every application for such certificate of registration shall be accompanied by such fees (not exceeding one rupee for 0·4 hectare of the land in relation to which such application has been made) as may be prescribed.

Registration of curers of virginia tobacco.

11. No person other than a registered curer shall cure or undertake the curing of virginia tobacco unless he registers himself as a curer with the Board in accordance with the rules made under this Act.

Registration of exporters, packers, auctioneers and dealers.

12. No person shall export tobacco or any tobacco products or function as a packer, auctioneer of, or dealer in, tobacco unless he registers himself with the Board in accordance with the rules made under this Act.

Virginia tobacco to be sold at registered auction platforms.

13. No registered grower or curer shall sell or cause to be sold virginia tobacco elsewhere than at an auction platform registered with the Board in accordance with the rules made under this Act.

Application, cancellation, fees and other matters relating to registration.

14. The form of application and the form of certificate of registration under section 10, the form of application for registration of curers for the purposes of section 11, for registration of exporters, packers or auctioneers of, or dealers in, tobacco, for the purposes of section 12, and for registration of auction platforms for the purposes of section 13, the time within which and the manner in which such applications shall be made, the fees payable on such applications, the particulars to be specified therein, the principles and the procedure to be followed in granting and cancelling certificates of registration or the registration of auction platforms or, as the case may be, the registration as curers, exporters, packers or auctioneers of, or dealers in, virginia tobacco, the returns to be submitted by registered growers and registered curers, exporters, packers or auctioneers of, or dealers in, tobacco, and the registers to be kept by the Board shall be such as may be prescribed.

Power of inspection.

15. The Board may authorise any of its members, officers or other employees to inspect in such manner as may be prescribed any land or premises to verify the accuracy of any particulars mentioned in any application or any return referred to in section 14.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants and loans by the Central Government.

16. The Central Government may after due appropriation made by Parliament by law in this behalf, pay to the Board by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Constitution of the Tobacco Fund.

17. (*1*) There shall be formed a Fund to be called the Tobacco Fund and there shall be credited thereto—

(*a*) the fees levied and collected under this Act or the rules made thereunder;

(*b*) any sums of money paid or any loans granted by the Central Government for the purposes of this Act;

(*c*) any grants or loans that may be made by any person for the purposes of this Act;

(*d*) the sums, if any, realised by the Board in carrying out the measures referred to in section 8.

(*2*) The Fund shall be applied—

(*a*) for meeting the cost of the measures referred to in section 8;

(*b*) for meeting the salaries, allowances and other remuneration of the officers and other employees of the Board;

(*c*) for meeting the other administrative expenses of the Board;

(*d*) for repayment of any loans.

Borrowing powers of the Board.

18. Subject to such rules as may be made in this behalf, the Board shall have the power to borrow on the security of the Tobacco Fund or any other asset for carrying out the purposes of this Act.

Accounts and audit.

19. (*1*) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account, and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER V

CONTROL BY CENTRAL GOVERNMENT

Power to prohibit or control import and export of tobacco and tobacco products.

20. (1) The Central Government may, by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling the import or export of tobacco and tobacco products, either generally or in specified classes of cases.

(2) All tobacco and tobacco products to which any order under sub-section (1) applies, shall be deemed to be goods of which the import or export has been prohibited under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly. 52 of 1962.

(3) If any person contravenes any order made under sub-section (1), he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, as applied by sub-section (2), be punishable with imprisonment for a term which may extend to one year, or with fine, or with both. 52 of 1962.

Directions by Central Government.

21. The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Returns and reports.

22. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the tobacco industry, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI
MISCELLANEOUS

Penalties

23. Any person who, being required under this Act to furnish any return, fails to furnish such return or furnishes a return containing any particular which is false and which he nows to be false or does not believe to be true, shal be punishable with fine which may extend to five hundred rupees.

Penalties obstructing a member, officer or other employee of the Board in the discharge of his duties and for failure to produce books and records.

24. Any person who—

(*a*) obstructs any member or any officer or other employee of the Board or any other person in the exercise of any power conferred, or in the dishcargc of any duty imposed, on him by or under this Act; or

(*b*) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Other penalties

25. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in section 20 or section 23 or section 24, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Offences by companies.

26. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Jurisdiction of court.

27. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Previous sanction of Central Government.

28. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceedings shall lie against the Central Government, or the Board or any committee appointed by it, or any member of the Board or such committee, or any officer or other employee of the Central Government or of the Board or any agent of or any other person authorised by the Board, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Suspension of operation of Act.

30. (*1*) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers it necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent, for such period as may be specified in the notification, the operation of all or any of the provisions of this Act, in all or any of the territories to which this Act extends.

(*2*) Where the operation of any provision of this Act has, under sub-section (*1*), been suspended or relaxed, such suspension or relaxation may, at any time while this Act remains in force, be removed by the Central Government by notification in the Official Gazette.

(*3*) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the previous operation of the notification.

Application of other laws not barred.

31. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power of Central Government to make rules

32. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the powers and functions of the Vice-Chairman of the Board;

(*b*) **the term of office and other conditions of service of members, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, members;**

(*c*) the powers which may be exercised and the duties which shall be performed by the Executive Director and the Secretary;

(*d*) the circumstances in which and the authority by which a member may be removed;

(*e*) the holding of a minimum number of meetings of the Board every year;

(*f*) the procedure to be followed at the meetings of the Board for the conduct of business and the number of members which shall form a quorum at a meeting;

(*g*) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(*h*) the matters referred to in section 14;

(*i*) the powers of the Board, its Chairman, the Executive Director and committees of the Board with respect to the incurring of expenditure;

(*j*) the conditions subject to which the Board may incur expenditure outside India;

(*k*) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(*l*) the form and manner in which the accounts should be maintained by the Board;

(*m*) the deposit of the funds of the Board in banks and the investment of such funds;

(*n*) the conditions to be observed by the Board in borrowing money;

(*o*) the conditions subject to which, and the manner in which, contracts may be entered into by or on behalf of the Board;

(*p*) the additional matters in respect of which the Board may undertake measures in the discharge of its functions;

(*q*) **the remuneration and other allowances payable to the person or persons referred to in clause** (*b*) **of sub-section** (2) **of section 9;**

(*r*) the form and manner of, and the particulars to be contained in, any returns or reports to be made to the Board under this Act;

(*s*) the collection of any information or statistics in respect of tobacco or tobacco products;

(*t*) any other matter which has to be, or may be, prescribed by, or provided for by rules under, this Act.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations.

33. (*1*) The Board may make regulations not inconsistent with this Act and the rules made thereunder for enabling it to discharge its functions under this Act.

(*2*) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the procedure to be followed at meetings of the committees appointed by the Board and the number of members which shall form a quorum at a meeting;

(*b*) the delegation to the Chairman, members, Executive Director, Secretary or other officers of the Board, of any of the powers and duties of the Board under this Act;

(*c*) the travelling and other allowances payable to persons associated under sub-section (*8*) of section 4 or co-opted under sub-section (*2*) of section 7;

(*d*) the pay and allowances and leave and other conditions of service of officers (other than those appointed by the Central Government) and other employees of the Board;

(*e*) the maintenance of the accounts of the Board;

(*f*) the maintenance of the registers and other records of the Board and its various committees;

(*g*) the appointment by the Board of agents to discharge, on its behalf, any of its functions;

(*h*) the persons by whom, and the manner in which, payments, deposits and investments may be made on behalf of the Board.

(*3*) No regulation made by the Board shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving a regulation, may make any change therein which appears to it to be necessary.

(*4*) The Central Government may, by notification in the Official Gazette, cancel any regulation which it has approved and, thereupon, the regulation shall cease to have effect.

STATEMENT OF OBJECTS AND REASONS

India is the third largest producer of tobacco in the world with an average annual production of 350 million kilograms and sixth among the tobacco exporting countries with an average annual export of about 55 million kilograms. Virginia tobacco is the most important variety grown in the country (to the extent of about 100 to 125 million kilograms annually) and over fifty per cent. of the production is exported, making India the second largest exporter of virginia tobacco in the world.

2. For effectively regulating the tobacco industry, particularly virginia tobacco industry and for maintaining and improving exports and thereby augmenting the country's foreign exchange resources, it is absolutely necessary to take various measures right from the stage of production. The production of tobacco, particularly the virginia tobacco has to be planned carefully to suit specified needs of the markets by ensuring the requisite standards of quality and the fluctuations in production and prices have to be minimised. It is also necessary that services and facilities for research, marketing, warehousing, publicity and propaganda abroad and market intelligence in competing countries should be extended to this important export-oriented industry in an integrated manner. At present, there is no single authority in India which can deal with the various aspects of this industry in an integrated and effective manner. There are as many as five different independent organisations looking after, or exercising control over the movement, production, research, extension, quality control and export of tobacco. This is not conducive to the integrated approach which is needed for the effective regulation and development of the industry. In order, therefore, to provide the much-needed integrated institutional set-up, the question of bringing tobacco industry under the control of the Union and setting up a Tobacco Board has been under consideration of the Government for some time past. A number of Members of Parliament and Members of State Legislatures have been voicing demand for such a Board. The State Governments have been consulted and they also seem to favour the constitution of such a Board.

3. It is, therefore, proposed to provide for the development of the tobacco industry under the control of the Union and for the establishment of a Board to be known as the Tobacco Board. The Board is proposed to be constituted, among others, with Members of Parliament, representatives of the Ministries of Central Government dealing with Agriculture, Commerce, Finance and Industrial Development, Indian Council of Agricultural Research, growers of tobacco, dealers or exporters of tobacco and tobacco products, manufacturers of tobacco products, and of the representatives of the tobacco growing States. It is proposed to vest the Board with adequate powers to deal with various aspects of the industry.

4. The finances of the Board will consist of the fees collected by it, grants or loans made by the Central Government or by any person and the sums realised by the Board in the discharge of its functions.

5. To ensure that the Board has adequate resources, it is proposed to undertake separately legislation for the imposition, by way of cess, of a duty of excise on virginia tobacco which is produced in India and a duty of customs on all tobacco which is exported and for making over the proceeds, after due appropriation by Parliament by law, to the Board.

6. It is also proposed to take power for the Central Government to prohibit or control the imports and exports of tobacco and tobacco products either generally or in specified classes of cases.

7. The Bill seeks to achieve the above objects. The notes on clauses explain in detail the main provisions thereof.

NEW DELHI;

The 23rd November, 1974. D. P. CHATTOPADHYAYA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 1|25|72-EP(AGRI. 1), dated the 26th November, 1974 from Prof. D. P. Chattopadhyaya, Minister of Commerce to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Tobacco Board Bill, 1974, recommends under the article 117(3) of the Constitution of India the consideration of the Bill by the Lok Sabha.

Notes on clauses

Clause 2.—This clause contains the necessary declaration for bringing the tobacco industry under the control of the Union.

Clause 3.—This clause contains the definitions of important words and expressions used in the Bill.

Clause 4.—This clause seeks to provide for the establishment of a Board to be known as the Tobacco Board, and for its constitution.

Clause 5.—This clause seeks to provide that the Chairman shall be entitled to such salary and allowances and conditions of service as may be fixed by the Central Government.

Clause 6.—This clause provides for the appointment and conditions of service of the Executive Director, Secretary and other officers and employees of the Board. As the Board will be taking over the functions of the Tobacco Export Promotion Council, the clause also provides for the making of rules in regard to the absorption of the officers and employees of the Council in the event of the Council being wound up.

Clause 7.—This clause seeks to empower the Board to appoint committees for the efficient discharge of its duties and performance of its functions

Clause 8.—This clause deals with the functions of the Board. The clause seeks to authorise the Board to promote by such measures as it thinks fit the development nder the control of the Central Government of the tobacco industry and spells out some of the more important measures which the Board may provide for. In regard to virginia tobacco the measures include regulating the production and curing of virginia tobacco having regard to the demand therefor in India and abroad, keeping a constant watch on the virginia tobacco market both in India and abroad and ensuring that the growers get a fair and remunerative price for the same and that there are no wide fluctuations in the prices of the commodity. Further, both in the case of virginia tobacco and other varieties of tobacco, the Board may take measures, *inter alia,* for improvement of marketing within the country and outside, recommending to the Central Government the minimum prices for purposes of export, effecting purchase and sale of tobacco when it is considered necessary for protecting the interests of the growers and propagating information useful to the growers, dealers and exporters of tobacco and manufacturers of tobacco products and others concerned with tobacco and products thereof. In addition the Board will have power to take measures for sponsoring, assisting, co-ordinating or encouraging scientific, technological and economic researh for the promotion of tobacco industry.

Clause 9.—This clause deals with the dissolution of the Board.

Clause 10.—This clause seeks to impose an obligation to obtain a certificate of registration for growing virginia tobacco. It also seeks to specify

the factors which the Board shall take into account in granting or refusing certificates of registration.

Clause 11.—This clause provides for registration of curers of virginia tobacco.

Clause 12.—This clause seeks to provide for registration of certain classes of persons engaged in the tobacco industry.

Clause 13.—This clause seeks to impose an obligation on registered growers and curers of virginia tobacco to sell or cause to be sold virginia tobacco only at auction platforms registered with the Board.

Clause 14.—This clause is self explanatory.

Clause 15.—This clause seeks to empower the Board to authorise its members, officers and other employees to inspect land or premises for verifying particulars in applications for registration for various purposes.

Clause 16.—This is self explanatory.

Clause 17.—This clause seeks to provide for the constitution of a fund to be called the Tobacco Fund.

Clause 18.—This clause empowers the Board to borrow on the security of the Tobacco Fund or any other assets.

Clause 19.—This clause seeks to provide for the audit of the accounts of the Board by the Comptroller and Auditor-General of India.

Clause 20.—This clause seeks to empower the Central Government to prohibit, restrict or otherwise control by order the import or export of tobacco and tobacco products either generally or in specified classes of cases and makes contravention of such order punishable.

Clause 21.—This clause empowers the Central Government to issue necessary directions to the Board for the efficient administration of the legislation.

Clause 22.—This clause seeks to provide, *inter alia*, for annual reports of the activities of the Board and for the laying of the same before each House of Parliament.

Clauses 23—25.—These clauses seek to provide for penalties for failure to furnish returns, for obstructing a member, officer or other employee of the Board in the discharge of his duties, for failure to produce books and records and for other contraventions of the provisions of the legislation and the rules thereunder.

Clause 26.—This clause seeks to make persons in charge of, and responsible to a company for the conduct of business also liable, subject to certain safeguards, for any offence under the legislation committed by the company.

Clauses 27—29.—These are self explanatory.

Clause 30.—This clause seeks to provide for suspension of the operation of any provision of the legislation in any area if the Central Government considers it necessary or expedient so to do in the public interest.

Clause 31.—This clause provides that the provisions of the legislation shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Clause 32.—This clause seeks to empower the Central Government to make rules for carrying out the purposes of the legislation.

Clause 33.—This clause seeks to empower the Board to make regulations for enabling it to discharge its functions under the legislation.

FINANCIAL MEMORANDUM

Sub-clauses (1), (3) and (4) of clause 4 of the Bill provide respectively for the establishment offices and constitution of the Tobacco Board. Clause 5 provides that the Chairman of the Board shall be entitled to such salary and allowances as may be fixed by the Central Government while the allowances payable to the other members will have to be prescribed by rules under clause 32(2) (b) of the Bill. Clause 6 provides for the appointment of the Executive Director, Secretary and other officers and employees of the Board. The Executive Director and the Secretary will be entitled to such salaries and allowances as may be determined by the Central Government. The other officers and employees of the Board will be entitled to such salaries and allowances as may be provided for by regulations under clause 33(2)(d). Provision has been made in clause 33(2)(c) for the making of regulations in regard to the travelling and other allowances payable to persons associated with the Board under sub-clause (8) of clause 4 or co-opted to Committees of the Board under sub-clause (2) of clause 7. Provision has been made in clause 32(2)(q) for prescribing by rules the remuneration and other allowances payable to the person or persons who may be appointed by the Central Government under clause 9(2)(b) to exercise and perform the powers and duties of the Board when the Board is dissolved.

2. Clause 8 provides for the functions of the Board and these include, *inter alia*, the purchasing and selling of tobacco from growers in certain circumstances and sponsoring, assisting, co-ordinating or encouraging scientific, technological and economic research for the promotion of tobacco industry.

3. The aforementioned provisions of the Bill involve expenditure towards—

(a) payment of salaries, allowances, etc., of the Chairman and members of the Board, persons associated with the Board or co-opted to the Committees of the Board, persons appointed to exercise the powers and duties of the Board when the Board is dissolved and officers and employees of the Board; and

(b) meeting other administrative expenses of the Board including expenses for discharging its functions.

Clause 17 of the Bill provides for the constitution of a fund to be known as the Tobacco Fund and the Fund is to be applied for meeting the aforementioned expenditure. The Fund will consist, *inter alia*, of the various fees which may be collected by the Board, the sums paid to it by the Central Government (*vide* clause 16) or by any person and the sums realised by the Board in the discharge of its functions.

4. It is not possible at the present stage to indicate precisely the expenditure involved. However, it is estimated that a non-recurring expenditure of Rs. 2,00,000 is likely to be incurred initially on the establishment of the Board. A recurring expenditure of about Rs. 10,00,000 per annum is likely to be incurred by the Board. When the Board expands its activities, its expenditure may increase. As already mentioned, the Board will have to meet its expenditure from its own fund and any payments made to the Board by the Central Government will have to be made only after due appropriation made by Parliament by law in that behalf.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 30 of the Bill seeks to empower the Central Government to suspend or relax by notification the operation of any provisions of the legislation in any area for a specified period. This power is necessary to meet varying local circumstances and contingencies which cannot now be visualised. It is made clear that the power can be exercised only when it is necessary or expedient in the public interest. As in the case of rules, provision is made for laying of such notifications before each House of Parliament and for their modification or annulment by Parliament. In the circumstances, the delegation of legislative power is of a normal character.

2. Clause 32 of the Bill gives power to the Central Government to make rules to carry out the purposes of the legislation. The matters in respect of which rules may be made *inter alia* relate to the powers and functions of the Vice-Chairman, the term of office and other conditions of service of the members and the procedure to be followed at the meetings of the Board, the principles and procedure to be followed for granting, refusing or cancelling certificates of registration to growers, curers, exporters, packers and auctioneers of, and dealers in, tobacco, including the fees payable in respect of such registration, the preparation of budget estimates of receipts and expenditure of the Board, the form and manner in which the accounts of the Board are to be maintained, the conditions subject to which, and the manner in which, contracts may be entered into by or on behalf of the Board and other matters of a procedural or administrative nature. The delegation of legislative power under the clause is, therefore, of a normal character.

3. Clause 33 of the Bill empowers the Board to make regulations not inconsistent with the legislation and the rules made thereunder for enabling the Board to discharge its functions. Particular matters in respect of which the Board may make regulations have been detailed in sub-clause (2) of the clause. These matters *inter alia* relate to the procedure to be followed for the transaction of business at meetings of the Committees appointed by the Board, the travelling and other allowances payable to the members of the Committees appointed by, or persons associated with, the Board, the conditions of service of officers and employees (other than those appointed by the Central Government) of the Board. These are matters of detail and it is difficult to provide for the same in the Bill itself. Under sub-clause (3) of clause 33, no regulation made by the Board will have effect until it has been approved by the Central Government. As the matters in respect of which regulations may be made under clause 33 are matters of procedure or administrative detail, the delegation of legislative power if of a normal character.

S. L. SHAKDHER,
Secretary-General.

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